

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

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Korell Battle a/k/a Korell Robert
Floyd Battle,

Plaintiff,

v.

Robert Babb and George Amonitti,
Defendants.

No. 2:13-cv-951-RMG

ORDER

This matter is before the Court on the Report and Recommendation ("R&R") of the Magistrate Judge recommending that this Court grant Defendants' motion for summary judgment. (Dkt. No. 42). As set forth below, the Court agrees with and adopts the R&R as the order of the Court.

Background

Plaintiff, a state prisoner proceeding *pro se*, seeks relief pursuant to 42 U.S.C. § 1983 alleging deliberate indifference to his medical needs. Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(e) DSC, this matter was automatically referred to a United States Magistrate Judge for all pretrial proceedings. On July 5, 2013, Defendants filed a motion for summary judgment. (Dkt. No. 23). Plaintiff then filed a response in opposition to the motion. (Dkt. No. 36). The Magistrate Judge then issued the present R&R. (Dkt. No. 42). Plaintiff failed to file timely objections to the R&R.

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with

this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*


Discussion

After review of the record and the R&R, the Court finds that the Magistrate Judge applied sound legal principles to the facts of this case and therefore agrees with and adopts the R&R as the order of the Court. The Court agrees with the Magistrate Judge that, drawing all inferences in Plaintiff’s favor, Plaintiff cannot show that Defendants’ actions satisfy the standard required to establish a claim for deliberate indifference under the Eighth Amendment.

Conclusion

As set forth above, the Court agrees with and adopts the R&R as the order of the Court. (Dkt. No. 42). Accordingly, the Court grants Defendants’ motion for summary judgment. (Dkt. No. 23).

AND IT IS SO ORDERED.


Richard Mark Gergel
United States District Court Judge

January 9, 2014
Charleston, South Carolina